

REMARKS

After entry of this Amendment and Response, claims 1–4, 6–7, 9–24, 26–41, 43–55, 57–68, 70–74, and 76–78 will be pending. Claim 5 has been cancelled and claim 50 has been amended to clarify the scope of the claim.

Claim 50 has been amended to reflect the limitations of cancelled allowable claim 56. Support for the amendments may be found, for example, in the previously filed claims. No new matter has been added.

The Applicants note with appreciation that the Examiner has indicated that claims 38, 68–62, 70–74, and 76–77 are allowable.

Claims 1–7, 9–14, 16–17, 20, 22–24, 26–33, 35–37, 39–49, 66–67, 75–76, and 78 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9–24, and 83 of co-pending U.S. Application No. 10/848,831. Without acquiescing to the rejection that the claims of the instant application as being obvious in view of U.S. Application No. 10/848,831, Applicants nonetheless are filing a Terminal Disclaimer to advance the prosecution of this case. Applicants submit that this rejection is overcome by the enclosed Terminal Disclaimer.

Rejections Under 35 U.S.C. § 112

Claims 50–55, 57, and 63–65 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Examiner objected to claim 50 for reciting that “a first particulate adhesive consisting essentially of partially hydrolyzed polyvinyl alcohol.” Applicants have amended claim 50 to recite “a first particulate adhesive is partially hydrolyzed polyvinyl alcohol,” as recited in originally filed claim 56.

Claim 5 is rejected under are rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Examiner objected to claim 5 for reciting that the “filler has a mean particle size between about 20 and 200 micron” while claim 1 has been amended to recite “filler comprising plaster and a polymer.” The Examiner asserts that the scope of claim 5 is confusing because it is not clear which filler has a particle size between about 20 and about 200 microns – the plaster and/or the polymer.

Applicants have cancelled claim 5, without prejudice, rendering this objection moot.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all claims are now in condition for allowance.

If the Examiner believes that a telephone conversation with Applicants' attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney at (617) 570-1806.


A check for \$130 for the Terminal Disclaimer fee is enclosed. Applicants believe that no additional fees are required. However, if any other fee is due, please charge any such fee occasioned by this paper to our Deposit Account No. 07-1700.

Respectfully submitted,

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